

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

**Caption in compliance with D.N.J. LBR 9004-2(c)**

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In Re:	:	Case No. 10-15436
	:	
	:	Chapter 11
ETHAN H, LLC,	:	
	:	Judge Michael B. Kaplan
Debtor.	:	
	:	

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**ORDER TERMINATING LEASE AND CONVERTING**  
**CHAPTER 11 CASE TO CHAPTER 7 CASE**

The relief set forth on the following pages, numbered two (2) through four (4) is hereby  
ORDERED.

In re: Ethan H, LLC  
Case No. 10-15436 (MBK)  
Page 2 of 4

**ORDER TERMINATING LEASE AND CONVERTING**  
**CHAPTER 11 CASE TO CHAPTER 7 CASE**

This matter having been opened to the court by Sayreville Plaza, LLC ("Sayreville Plaza"), a creditor and lessor of commercial real property to the debtor and debtor-in-possession, Ethan H, LLC (the "Debtor"), through its undersigned attorneys, Nowell Amoroso Klein Bierman, P.A., by way of the filing of a Certification of Default seeking the entry of an Order converting the Chapter 11 Case to a Chapter 7 Case and terminating the lease agreement between Sayreville Plaza and the Debtor (the "Lease") regarding the real property located at 916 Route 9 South, South Amboy, New Jersey (the "Leased Premises"), it appearing that this Court conducted a hearing on June 9, 2010, where the Debtor delivered a \$15,000.00 debtor-in-possession check (the "DIP Check") to Sayreville Plaza, it appearing that in reliance upon the DIP Check, the June 9, 2010 hearing was adjourned to June 14, 2010, at which time the Debtor was to remit the remaining \$43,951.00 in overdue rent, it appearing that the Debtor was unable to remit any money at the June 14 hearing, it appearing that at the June 14 hearing, in further reliance upon the negotiability of the DIP Check, the parties entered into a settlement agreement, it appearing that such settlement agreement was memorialized in this Court's Order, dated June 16, 2010, it appearing that such settlement agreement provides that upon the Debtor's default upon the terms thereof an Order is to be entered terminating the Lease, converting the Debtor's Chapter 11 Case to a Chapter 7 Case, and requiring the Debtor to terminate its use of the Leased Premises, it appearing that the DIP Check was dishonored by the bank, it

In re: Ethan H, LLC  
Case No. 10-15436 (MBK)  
Page 3 of 4

**ORDER TERMINATING LEASE AND CONVERTING**  
**CHAPTER 11 CASE TO CHAPTER 7 CASE**

appearing that following the filing of a Certification of Default on June 17, 2010 by Sayreville Plaza, the Debtor delivered a bank check for \$58,000.00 to Sayreville Plaza on June 18, together with a promise to cure the remaining arrears of \$951.00 by June 21, it appearing that despite notice to the Debtor's counsel on June 23, 2010 that the \$951.00 arrears was not timely cured, a second Certification of Default was filed with this Court on June 25, 2010, and subsequently, the \$951.00 payment was received by Sayreville Plaza and such Certification of Default withdrawn, it appearing that the Debtor failed to remit the rent due on July 1, 2010, and consequently, on July 7, 2010 Sayreville Plaza filed a third Certification of Default, it appearing the Court conducted a hearing on this matter on July 12, 2010, it appearing that the Debtor delivered an \$8,000.00 DIP check at such hearing, and agreed to, inter alia, remit payment of \$1,000.00 for ten weeks, starting July 19, 2010, it appearing that the \$8,000.00 DIP check has been dishonored and the Debtor failed to remit the payment due on July 19, 2010, it appearing that Sayreville Plaza has now been forced to file a fourth Certification of Default, and for good cause shown, it is hereby:

ORDERED, the Lease between Sayreville Plaza and the Debtor regarding the Leased Premises is hereby terminated, and it is further

ORDERED, the Debtor shall immediately terminate its use of the Leased Premises, and it further

ORDERED, the Debtor's Chapter 11 Case is hereby converted to a Chapter 7 Case,

In re: Ethan H, LLC  
Case No. 10-15436 (MBK)  
Page 4 of 4

**ORDER TERMINATING LEASE AND CONVERTING**  
**CHAPTER 11 CASE TO CHAPTER 7 CASE**

and it further

ORDERED, that within 14 days of the date of this Order the Debtor shall file:

- Amendments to previously filed schedules and statements as necessary,
- All schedules and statements required by 11 U.S.C. § 521(a), if such documents have not already been filed,
- A schedule of all property which was acquired after the commencement of the case, but before the entry of this Order,
- A schedule of all executory contracts and unexpired leases entered into or assumed after the commencement of the case, but before the entry of this Order,
- A schedule of unpaid debts incurred after the commencement of the case, but before the entry of this Order.

ORDERED, that the United State Trustee shall immediately appoint a Chapter 7 Trustee in this case, and it is further

ORDERED, that the Debtor shall immediately turn over the Chapter 7 Trustee, all records and property of the estate in his/her custody or control.